

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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L&L WINGS, INC.,

07 cv 4137 (BSJ)

Plaintiff,

**DECLARATION OF  
MORTY ETGAR**

- against -

MARCO-DESTIN INC., 1000 HIGHWAY 98  
EAST CORP, PANAMA SURF & SPORT, INC.  
and E&T INC.,

Defendants.

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MORTY ETGAR declares as follows:

1. I am the same person whose deposition was taken in this case on July 11, 2008.
2. I am licensed as a Certified Public Accountant in the State of Florida and the four defendants in this lawsuit are among my clients.
3. In response to a subpoena, numerous documents were collected. Four documents, for a total of five pages, were withheld solely on the basis of Florida's accountant-client privilege. Other documents may have been withheld on the basis of both the Florida attorney-client privilege and attorney-client privilege or because they were determined not to be responsive to the document requests contained in the subpoena.
4. I have reviewed four documents (total of five pages) before signing this Declaration. The documents are not attached to this Declaration because the Florida accountant-client privilege prevents their disclosure. The "numbering" on the documents is ETGAR 0000017, 00001632, 00001654-55, and 00001665. All of these documents contain my notes.

None of these documents with my notes were given to my clients. None of these documents with my notes on them were created at the direct request of my clients, and, in fact, I never even discussed the existence of these documents having my notes on them with my clients.

5. In accordance with my practice, documents with these kinds of notes on them are never given to my clients and probably would never be given to my client (except, of course, in the event of litigation between the client and myself) Furthermore, should a client transfer its work to another Certified Public Accountant, my notes of the type on these documents would not be turned over to the next Certified Public Accountant.

6. I consider these to be my documents, not my client's documents. In fact, my clients do not know specifically of these types of documents and certainly the clients in this suit do not even know of the existence of the documents other than the fact that certain unspecified documents were withheld on the basis of accountant-client privilege, and the clients still do not know the content of these documents.

Signed under penalty of perjury of the laws of the United States.

Dated: August 29, 2008  
Miami, Florida.



MORTY ETGAR



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 3, 2008, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Scott M. Kessler  
Scott M. Kessler

**SERVICE LIST**

L&L Wings, Inc. v. Marco-Destin Inc., et al.

Case no. 07-Civ-4137(BSJ) (GWG)

United States District Court, Southern District of New York

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